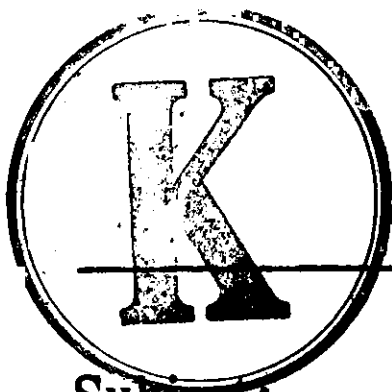


1942.



Subject:—

File No. B. Co. op
Societies/42

Legal DEPARTMENT

B BRANCH

P-19
P

Governor's Bill No. XXVII 1941

A Bill to amend the Bombay
Co-operative Societies Act, 1925.

(Insertion of new S. 24-A.)

Bom. XXIX of 1942

File No.

Std. Sectt. Slip 24 B e.

B. Co. op. Societies/42

(Insertion of new Sec. 24-A.)

Bom. XXIX of 1942

574-B

C O N T E N T S.

Legal Department File No. B Co-Op. Societies/42.

S.No.	Compilation No.	Subject	Pages.
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A Bill to Amend Bombay Co-op. Societies Act, 1924.

1.	U.R. to R.D. No. 7544 dt. 27.8.41.	Draft Bill.	1.
2.	U.R. to R.D. No. 5175 dt. 24.6.42.	<u>Payment of Rates Act</u> <u>and S. 6(f) Transfer of Property</u> <u>Act.....</u> Effect of the Bill on ...	
3.		G.W.R.D. No. 5805/39 dtd. 21.7.42.	5 - 7 (PP 5 to 9 not typed.)
4.	L.D. Letter No. 9823 dt. 8.12.42.	Forwarding Bill No. XXVII of 1942 to the Secretary to the Governor of Bombay.	9 - 13 (PP 11 to 13 not typed)
5.	U.R. to R.D. No. 9822 dt. 8.12.42	Notification U/S 92(1), Govt. of India Act, 1935.	15 - 17
6.	R.I. No. 1296 dt. 10th. Feb. 43.	G.O.S. assent to the Bill	19.
7.	G.R. L.D. No. 1063 dt. 11.2.43.	Publication of Act, No. XXIX of 1942.	21 - 25. (PP 23 to 49 not type)
8.		Governor's Bill No. XXVII of 1942.	27 - 37.
9.		Bombay Act No. XXIX of 1942.	39 - 49.
10.	R.I. No. 1828 A dt. 3.3.43. L.D. letter No. 2037 dt. 18.3.43	Why Act is called Act of 1942 when it was actually assented to by the G.O. in 1943.	39 - 41 51 - 54.

K.V.V.
5/3.
5 Copies.

W
8/5
K.S.R.
8/5

1.

Office of the R.L.A.

The requisite draft Bill is appended.

2. The subject matter of the Bill falls under entry No.33 in List II and entry No. 8 in List III in the Seventh Schedule to the Government of India Act, 1935. As the Bill is repugnant to the provisions contained in section 6 (f) of the Transfer of Property Act, 1882, it will be necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act and paragraph 2 of the Proclamation. Under executive instructions, it requires the previous approval of the Governor-General. Attention of Revenue Department is also invited to Secretary to Governor's Circular No.201(12) dated the 4th August 1941.

Sd/- P.H.N.
25/8.

Remembrancer of Legal Affairs.

U.R. to S.D. No.7544, dated 27-2-1941.

A.O.
M.V.V.
5/5.

Office of the R.L.A.

The proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1908, specifies the property exempt from attachment in execution of a decree by the Civil Court. It lays down a rule of procedure by attachment and not a rule of substantive law of universal application. The scheme of section 24A proposed to be inserted by the Bombay Co-operative Societies (Amendment) Act, 1942, does not contemplate that the agreement mentioned therein should be given effect to by attachment of salary through an executing court. After the Act receives the Governor-General's assent it will prevail *inter alia* over the Payment of Wages Act and section 6(f) of the Transfer of Property Act; and the agreement made under sub-section (1) of section 24A would be valid for the purposes of the Act, and can be given effect to under sub-section(2) of the said section which requires the employer, if requested by the society to do so, to make deductions from the employee's salary and pay them to the creditor in accordance with the terms of the agreement. As the agreement is to be enforced under sub-section(2) and not by attachment of salary through a Court of law, it is unlikely that the smooth working of the proposed enactment will be affected by section 60 of the Code of Civil Procedure, and presumably also by an amendment of that section stated to be now under the contemplation of the Government of India.

2. Now section 24A (2) in clause 2 of the draft Bill may be amended as shown in margin at page 22 ante to leave no room for doubt that the request made by a society to the employer under the said provision is a requisition within the meaning of section 61 read with section 60(d) of the Bombay Co-operative Societies Act, 1925.

Sd/- P.N.M./22.6.
 Revenue and Legal Affairs.

U. P. to R.D. No.5175 dated the 24th. June 1942.

4-cs.
 E.V.V.
 5/5.

No. 9823.
Legal Department,
Bombay Castle, 8th December 1942.

From

P. N. Moos, Esquire, Barr-at-Law, I.C.S.,
Secretary to the Government of Bombay,

To,

The Secretary to the Governor of Bombay,

Subject:- A Bill to amend the Bombay Co-Operative
Societies Act, 1925.

Sir,

With reference to your Memorandum No. 201(46) dated the 18th. July 1942 addressed to the Revenue Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Co-operative Societies Act, 1925, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated November 1939 issued by him under section 53 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entry 33 in the Provincial Legislative List and entries 8 and 27 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill is repugnant to the provisions contained in section 6(f) of the Transfer of Property Act, 1882, and with section 7(1) of the Payment of Wages Act, 1935, which are existing Indian Laws with respect to matters enumerated in entries 8 and 27, respectively, in the Concurrent Legislative List; it will be necessary to reserve it for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107 (2) of the Government of India Act, 1935.

4. I also forward herewith six spare copies of the Bill, out of which five copies are for transmission to the Secretary to the Governor

P.T.O.

General (Public).

Yours obedient servant,

Sd/- P.N.M.
8/12.

Secretary to the Government of Bombay,
Legal Department.

Thorough:-

The Secretary to the Government of Bombay,
Revenue Department.

4-Ca.
M.V.V.
x/x

Legal Department.

The Bombay Co-operative societies (Amendment) Bill, 1942, has been forwarded separately through the R.D. to the Secy. to the Governor for obtaining the assent of H.E. the Governor General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is sent herewith. It should be published by the R.D. in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

24/- S. K. S. L. C.
7/12.

for Secretary to Government,
Legal Department.

U.R. to R.D. No. 9222, dated the 8th December 1942.

L-Co.

M.V.V.
5/5.

Notification.
Revenue Department.
Bombay Castle, 1942.

Government of India
Act 1935.

*To be filled in by
R.D. before issue.

No. In exercise of the powers conferred by sub-section (1) of section ⁹²~~92~~ of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Co-operative Societies (Amendment) Act, 1942 (Bom. of 1942) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

A.C.S.
H.V.V.
5/5.

No.201(46)
Office of the Governor's Secretary,
Government House,
Bombay, 9th February 1943.

From

J.B. Irwin, Esquire, CIE, DSO, MC, ICS.

Secretary to the Governor of Bombay.

To,

The Secretary to Government,

Legal Department, Bombay.

Subject:- The Bombay Co-operative Societies
(Amendment) Bill, 1942.

- - - - -

Sir,

With reference to your letter No. 9823, dated the 8th December 1942, on the above subject, I am directed to forward herewith the copy of the Bombay Co-operative Societies (Amendment) Bill 1942, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd.

For Secretary to the Governor of Bombay.

L-Cs.

H.V.V./5.5

Act.

Publication of the Bombay Co-operative
Societies (Amendment) Act, 1942.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 1069.
Bombay Castle, 11th February 1943.

Letter to the Secretary to the Governor, No. 9823 dt dated the
8th December 1942.

from
Letter to the Secretary to the Governor, No. 231(46), dated the
9th February 1943.

With reference to your letter No. 9823, dated the
8th December 1942, on the above subject, I am
directed to forward herewith the copy of the
Bombay Co-operative Societies (Amendment) Bill
1942, with His Excellency the Governor General's
assent signified thereon."

RESOLUTIONS:- The Law should be published as Bombay Act No. XXIX
of 1942, in the Bombay Government Gazette dated the 11th February 1943.

2. The Act should be translated into Marathi, Gujarathi, Kunnada,
and Hindustani (in Urdu and Devnagari Scripts) and the translations should
be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/- S. L. Chaudhari,

For. { P. N. MOOS,
Secretary to Government.

To,
The Manager, Government Central Press, Bombay (with a copy of the
Act and with a request that 15 Gazette copies of the Act may
be forwarded to the Legal Department).
The Revenue Department. } With a copy
The Oriental Translator to Government. } of the Act.
The Secretary to the Bombay Legislative Council. }
The Secretary to the Bombay Legislative Assembly. }

With five extra copies.

4-Ca.
H. V. V.
5/5.

Letter.

No. 201(46)
 OFFICE OF THE Governor's Secretary,
 Government House,
 Bombay, 1st March 1943.

From

The Secretary to the Governor of Bombay,

To,

The Secretary to Government:
 Legal Department, Bombay.

Subject:- The Bombay Co-operative Societies
 (Amendment) Act, 1942.

Reference your letter No. 1403, dated 23rd February 1943 forwarding copies of the Bombay Co-operative Societies (Amendment) Act 1942. Please state why this Act is called an Act of 1942 when it was actually assented to by His Excellency the Governor General on the 3rd. February 1943.

Sd/-

For Secretary to the Governor of Bombay

H.V.V.
 7/5.

L-Co.

No.2037

Legal Department,
Bombay Castle, 18th March 1943.

From

P.N.Meos, Esquire, Barr-at-Law, I.C.S.,
Secretary to the Government of Bombay.

To,

The Secretary to the Governor of Bombay.

Subject:- The Bombay Co-operative Societies
(Amendment) Act, 1942.

Sir,

With reference to your letter No.201(46) dated the 1st March 1943, on the subject noted above, I am directed to state that in the copy of the Act which was sent for assent to the Governor-General, section 1 provided that the Act may be called by the short title, "the Bombay Co-operative Societies (Amendment) Act, 1942." It is true that this Act was assented by the Governor-General in 1943 but once an Act is assented to by the Governor or Governor - General as the case may be it is not possible to make any change in the short title or any other provision thereof. The coming into force of a Bombay Act generally depends not on the date on which the Bill is sent for assent, nor on the date on which the Bill is sent for assent, nor on the date on which assent is given but on the date on which the assent is published in the Gazette. See sub-section 5(1) of the Bombay General Clauses Act, 1904, which distinguishes Bombay Acts from all Central Acts. Owing to distance and delay of communication between the Provinces and the Centre, Provincial Acts are susceptible of the anomaly that the year of the Act as set out in the short title at the time the Bill is sent up for assent may not coincide with the year of the assent itself, or if it does, it may yet not coincide with the year of publication of that assent. Our practice therefore is to number and retain the Act as an Act of the year corresponding to its short title and show at the heading the date of publication of assent in the Gazette. This practice is in line with that of Madras, the Punjab, the United Provinces and Sind. (~~vide Pub~~

(Vide Punjab Act No.XVIII of 1940, U.P. Act No.XVIII of 1939 and Sind Acts Nos. XXIII to XXVII of 1940). Hence the Bombay Land Improvement Schemes Act, Bombay Co-operative Societies (Amendment) Act, and Bombay Cotton Control Act, although actually assented to by His Excellency the Governor General in 1943 were numbered as Acts of 1942.

Your obedient servant,

Sd/- P.N.M.

18.3

Secretary to the Government of Bombay,
Legal Department.

4-Cs.

H.V.V.
7/5.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 3rd February 1943 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department

BOMBAY ACT No. XXIX OF 1942.

(First published, after having received the assent of the Governor General in the "Bombay Government Gazette" on the 11th February 1943.)

An Act to amend the Bombay Co-operative Societies Act, 1925.

WHEREAS it is expedient to amend the Bombay Co-operative Societies Act, 1925, for the purpose hereinafter appearing ;

Bom. VII
of 1925.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under

section 93 of the Government of India Act, 1935, 26 Geo. 5,
all powers vested by or under the said Act in the Ch. 2.
Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title.

1. This Act may be called the Bombay Co-operative Societies (Amendment) Act, 1942.

Insertion of
new sec-
tion 24-A
in Bom. VII
of 1925.

2. After section 24 of the Bombay Co-operative Societies Act, 1925, the following new section shall be inserted, namely :— Bom. VII
of 1925.

Deduction
from salary
to meet
society's
claim in
certain cases.

“24-A. (1) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society.

(3) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force on the date of the commencement of the Bombay Co-operative Societies (Amendment) Act, 1942.

(4) Nothing contained in this section shall apply to persons employed in Federal railways (within the meaning of the Government of India Act, 1935), mines and oil-fields.” 26 Geo. 5
Ch. 2.

STATEMENT.

It has, for many years, been the practice for members taking loans from salary-earners' co-operative societies to sign an agreement authorising the officer disbursing the salary to deduct from it the amount of instalment due on the loan and to remit the amount deducted to the society.

It is also usual, by the same agreement, to undertake not to revoke the authority thus given so long as any part of the loan and interest thereon remain unpaid.

2. Government is now advised that the practice described above is not legal. It is necessary that this position should be remedied at once as salary-earners' societies have been rendering most useful service and their existence will be seriously jeopardised in the absence of legal protection to their operations. This amending Act seeks to carry out this object.